

EXHIBIT B

HOSTED SERVICE AGREEMENT

This **HOSTED SERVICE ADDENDUM** (this “**Agreement**”) is subject to the terms and conditions of the Accela Agreement to which it is attached (the “**Agreement**”), and is hereby incorporated into and made a part of the Agreement by this reference. Capitalized terms not defined in this Addendum will have the meanings ascribed in the Agreement.

ADDENDUM

1. **Right to Use the Hosted Service and Documentation.** In consideration of all obligations of City hereunder, including, without limitation, the payment by City of any applicable fees, Accela hereby grants to City, during the Term of the Agreement, and its Related Entities (the “**City**” (Related Entities are other government entities within the City of Boston with a primary charter related to the operation of the City of Boston)), pursuant to that certain agreement entered into between Accela and the City as of even date herewith in response to DoIT-EV00001595 (“**Prime Contract**”);, during the Term of the Agreement: (i) a non-exclusive, non-transferable (except as otherwise provided for herein), right and license to access and use Open Counter’s software-based service accessed via the Internet that enable persons and/or businesses (“**Permit Applicant(s)**”) to apply for certain permits and licenses, the issuance of which is within the jurisdiction of the City (the “**Hosted Service**”), and (ii) the right to make a reasonable number of copies of and use the Documentation in connection with such use of the Hosted Service. For purposes of this Addendum, “**Documentation**” means the information made generally available by OpenCounter to its customers that describes the form, features and/or operation of the Hosted Service, whether contained in a tangible medium, such as written format, tape, magnetic or other media, or made available in an electronic format. Documentation shall include any updates of Documentation that Open Counter may make available for Accela to provide to the City pursuant to this Addendum. The use of the Hosted Service by the City is governed by this Addendum, and the Terms of Service referenced in the Prime Contract are not applicable to the City. If City, including its employees, officers, and agents acting on behalf of the City is presented with a similar agreement on the same subject matter upon its log in to use the Hosted Service, this Addendum supersedes and replaces that agreement.
2. **Use of Hosted Service by Permit Applicants.** Accela agrees that Permit Applicants may use the Hosted Service, for the purpose of providing information to the City regarding applications for permits the issuance of which are within the City’s jurisdiction, provided that Permit Applicants shall be required to consent to Open Counter’s then-current terms of service presented to Permit Applicants when they register with the Hosted Service (“**Terms of Service**”), as the same may be reasonable modified by Open Counter from time to time, subject to the written approval of the City, which approval shall not be unreasonably withheld, conditioned or delayed. City understands and agrees that if any Permit Applicant declines to agree to the Terms of Service, Accela has no obligation to permit such Permit Applicant to access or use the Hosted Service. A copy of Open Counter’s current Terms of Service are attached..
3. **Use Restrictions.** he City agree not to: (i) access and/or use the Hosted Service in order to design, create or build a service or product that misappropriates any trade secret of Open Counter, infringes any intellectual property rights of Open Counter or uses any Confidential Information of Open Counter; (ii) license, sublicense, sell, resell, transfer, assign, distribute or otherwise commercially exploit or make available to any third party the Hosted Service, except as expressly permitted herein; (iii) modify or make derivative works based upon the Hosted Service or any part thereof, or directly or indirectly disassemble, decompile, or otherwise reverse engineer the Hosted Service or any portion thereof.
4. **Service Level Agreement.** the Hosted Service is subject to the service levels and support to be provided to Customer, all as more specifically set forth in Exhibit A to the Agreement in the Section entitled “Maintenance and Technical Support” (“**Service Level Agreement**”). In the event of a breach of the Service Level Agreement, Accela’s sole obligation and the exclusive remedy of City will be for Accela to re-perform the applicable support services, provided that if Accela fails to meet a Critical issue obligation three (3) times in one calendar month, Accela will provide City with a credit towards its next invoice in the amount of Ten Thousand Dollars (\$10,000).
5. **Suspension of Access to Hosted Service.** Accela may suspend access to the Hosted Service at any time in order to: (i) prevent damages to, or degradation of, Open Counter’s network integrity; (ii) comply with any law, regulation, court order, or other governmental request or order which requires immediate action; or (iii) otherwise protect Accela from potential legal liability; provided, however, Accela will use commercially reasonable efforts to provide City with a minimum of five (5) business days’ prior written notice of any such suspension. In addition, if City fails to pay, within forty five (45) days of receiving written notice, when due any amounts owed hereunder, Accela may suspend access by the City to the Hosted Service. If access to the Hosted Service is suspended, then (i) City will have access to the City Content and (ii) Accela will promptly restore access to the Hosted Service after the event giving rise to the suspension has been resolved to Accela’s reasonable satisfaction.
6. **Proprietary Rights.** The Hosted Service, including all intellectual property rights therein and thereto, and any modification thereof, are and shall remain the exclusive property of Open Counter and its licensors. City shall not take any action that jeopardizes the proprietary rights of Open Counter or its licensors or acquire any right in the Hosted Service except the limited rights expressly granted City in this Addendum.
7. **Internet and Telecommunications Connections.** Accela requires the City to be responsible for obtaining any and all Internet and/or telecommunication connections used by the City to access the Hosted Service. Accela shall have no responsibility or liability for any interruption or delay in accessing or using the Hosted Service arising out of such Internet or telecommunications connections.
8. **City Content.** City will provide City Content for inclusion in the City database on the Hosted Service. City agrees that the City is responsible for the quality of the City Content that it provides for inclusion in the City database on the Hosted Service, which includes, but is not limited to, checking the accuracy of, and updating and reviewing, any City Content that is input by City. In the event the Prime Contract expires or is terminated, Accela will make available to the City a file of the City Content within sixty (60) days of such termination or expiration. Upon termination and after providing City Content to City, Accela shall have no obligation to maintain or to forward to the City any City Content. “**City Content**” means any information or data related to the City, whether supplied by the City or a Permit Applicant, that is input into the Hosted Service by the City or a Permit Applicant, or provided by the City or a Permit Applicant in connection with use of the Hosted Service by Customer and/or Permit Applicants.
9. **Licenses to Accela.**
 - 9.1 **Ownership; Access; Return and Destruction.** The City possesses and retains all right, title, and interest in and to City Content, and Accela’s use and possession thereof is solely for the purposes and subject to the rights set forth herein. The City may access and copy any City Content in Accela’s possession upon reasonable prior written request, and Accela will facilitate such access and copying promptly after the City’s written request. When this Agreement expires or is terminated, Accela shall provide to the City a file or files of the City Content in a mutually agreed accessible format within sixty (60) days of such termination or expiration. Thereafter, Accela and Open

Counter will promptly destroy and erase all copies of City Content in its possession or control, except to the extent prohibited by law or as otherwise provided herein. Accela may obtain the City Content through a public records request in the same manner as any other person, if such records are not exempt.

9.2 Customer Content. City possesses and retains all right, title, and interest in and to City Content and hereby licenses to Accela, a limited right and license, during the term of the Prime Contract, without the right to grant or authorize further sublicenses (other than OpenCounter), to use and reproduce City Content, solely for the purpose of facilitating the performance of the obligations under this Agreement. Unless it receives City's prior, written consent, Accela: (i) will not access or use City Content other than as necessary to facilitate the Hosted Service; and (ii) will not give any third party access to City Content. Notwithstanding the foregoing, City Content may be disclosed as required by applicable law or by proper legal or governmental authority. City will be given prompt notice of any such legal or governmental demand and Accela will reasonably cooperate with City in any effort to seek a protective order or otherwise to contest such required disclosure.

9.3 Data Captured by the Hosted Service. Accela shall obtain from the City on behalf of Open Counter, the right for Open Counter to aggregate anonymized data captured by the Hosted Service in connection with the use of the Hosted Service by Customer and Permit Applicants ("Captured Data") with data captured by the Hosted Service from its use by other parties (collectively, "Aggregated Data"). The Captured Data must be anonymized to the extent that it is not possible to re-identify individuals from the Captured Data or the Aggregated Data. Accela shall obtain from the City on behalf of Open Counter, solely as part of the Aggregated Data, the right for Open Counter to use, reproduce, distribute, prepare derivative works from the Captured Data, provided that under no circumstances will Open Counter use the Captured Data in a way that identifies Customer or individual Permit Applicants. If Captured Data is incorporated into any commercial product or service, the City is entitled to receive such commercial product or service at no cost to the City and with the same rights as any paying customer. The license granted in this Section 9.3 shall survive any termination or expiration of the Agreement and/or the Prime Contract.

10. Perpetual License Option. In addition to the rights granted herein to access and use the Hosted Service, the City has the option to enter into a perpetual license with Open Counter under which the City shall have the option, exercisable upon the expiration of the twenty four (24) month or thirty six (36) month term of the Prime Contract, at the City's sole and absolute discretion, to exercise of the rights set forth in Addendum 4 to the Prime Contract (Perpetual License Addendum). In the event that the City exercises such rights, any conflicts between the provisions of this Addendum and the provisions the Perpetual License Addendum will be resolved in favor of the provisions of the Perpetual License Addendum.

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